ming v. St. Paul D. R. Co., 27 Minn. 111. The English courts, however, hold that the maxim, "Volenti non fit injuria," does not apply when the injury arises from a direct breach of a statutory obligation. *Braddeley v. Granville*, L. R., 19 Q. B. 423. This rule has been adopted in Illinois, Missouri, Ohio and Indiana. There is also a difference of opinion when the statute is for the protection of the employee. The English rule is that the maxim has no application. *Groves v. Lord Wimborne*, 2 Q. B. 402. The Massachusetts rule, which seems to be much the better, is that when an employee continues in his employment, knowing that his employer is breaking the statute, he waives all right to claim under the statute. *O'Maley v. South Boston Gaslight Co.*, 158 Mass. 135. Many States follow the Massachusetts rule, including Iowa and New York. *Ford v. Railway Co.*, 106 Iowa 85. *Ryan v. Long Island Railroad*, 51 Hun. 607.

INSURANCE—INSURABLE INTEREST—SOLE OWNERSHIP.—STEINMEYER V. STEINMEYER, 42 S. E. 184 (S. C.).—*Held*, an insurance policy requiring sole and unconditional ownership is not void when taken out by the grantee of realty by deed of gift, though the deed has been adjudged void as against the grantor's creditors.

The existence of a lien on property is not a breach of a condition in a fire policy requiring sole and unconditional ownership in the assured. *Friezer v. Allemania Fire Ins. Co.*, 30 Fed. 352; *Strong v. Manufacturer's Ins. Co.*, 27 Mass. 40. Where fact of a pending litigation affecting the premises insured was not communicated to the insurer at the time of executing the policy, the policy is not thereby vitiated. *Hill v. Lafayette Ins. Co.*, 2 Mich. 476; *Lang v. Hawkeye Ins. Co.*, 74 Iowa 673.

LEGISLATIVE AUTHORITY TO ERECT STRUCTURES—ABUTTING OWNER'S RIGHTS.—PAPE V. N. Y. & H. R. R. Co., 77 N. Y. SUPP. 725.—Defendant by authority of the legislature constructed a viaduct in a public street occupying more than the previous road-bed. The structure interfered with the easements of light, air, and access of abutting property owners. *Held*, such construction is a trespass. Van Brunt, P. J., *dissenting*.

The weight of authority upholds this decision. *Reining v. R. R. Co.*, 128 N. Y. 157. The governing principle was stated in *Lewis v. R. R. Co.*, 162 N. Y. 202, that where easements are interfered with, even though by governmental authority, the injured parties must be compensated. However, it was held in *Fries v. R. R. Co.*, 169 N. Y. 270, that when a company is obliged under act of the legislature to build a viaduct in place of a depressed cut, it commits no trespass in carrying out the work. But this attempted distinction between a mandatory and a permissive statute, is unsound when the rights of third parties are violated.

LIFE INSURANCE—SUICIDE—SANITY—RATIONAL INTENT—SUPREME LODGE MUT. PROTECTION V. GELBKE, 64 N. E. 1058 (ILL.).—Where there was an agreement that the company should not be liable in case of insured's death from suicide, sane or insane, *held*, that if the insured committed the act causing his death voluntarily, understanding the physical nature of his act, and intending to take his own life, the company was exempt whether the intent was rational or not.

The distinction pointed out in this case is generally accepted in the United States. *May, Ins.* (3rd ed.), vol. 1, secs. 307, 324; *Bigelow v.*

Berkeshire L. Ins. Co., 93 U. S. 284; *De Gogorza v. Knickerbocker L. Ins. Co.*, 65 N. Y. 232. And where the stipulation "sane or insane" or its equivalent is omitted the act is not suicide within the meaning of the policy. Even though the insured intends his death, if by reason of insanity he cannot appreciate the moral character of his act, or is impelled by an uncontrollable impulse. *Ins. Co. v. Terry*, 15 Wall. 580; *May, Ins.* (3d ed.), vol. 1, sec. 307. In England the distinction is not recognized, and although there is no clause as to insanity in the policy, still the act will be considered suicide when done voluntarily, in the pursuance of an intelligent purpose, even though by reason of insanity the insured cannot understand the moral character of his act. *Bowdaile v. Hunter*, 5 M. & G. 639. English rule is followed in Massachusetts. *Cooper v. Mass. Mut. L. Ins. Co.*, 102 Mass. 227.

NEGLIGENCE—CARRIERS OF PASSENGERS—INJURIES.—TOBENG V. METROPOLITAN ST. RY. CO., 76 N. Y. SUPP. 411.—Plaintiff was injured by the premature starting of a street car, which, while it was slowly moving, he attempted to board. *Held*, that an instruction that, in all ordinary cases, to attempt to board a moving public vehicle is negligent was erroneous.

The instruction expresses the established rule in the case of steam railroads. *Missouri Pac. R. R. Co. v. Texas R. R. Co.*, 36 Fed. 879; *Bacon v. Delaware R. R. Co.*, 143 Pa. St. 14. A distinction has often been made where the motion was slight; *B. & O. R. R. Co. v. Kane*, 64 Md. 11; although the only decision to that effect in this country since 1894, *Walthers v. Chic. & N. W. R. R. Co.*, 72 Ill. App. 354, has been overruled. *C. & A. R. R. Co. v. Flaharty*, 96 Ill. App. 563. But this rule does not apply to street railroads; *Corbin v. West End St. R. R. Co.*, 154 Mass. 197; and the decisions to that effect are supported by abundant text authority. *Shearm. & Red., Neg.*, sec. 282; *3 Thomp., Neg.*, secs. 35, 65. Most of the cases cited to uphold the opposite view involve some other element of negligence. *Dietrich v. St. R. R. Co.*, 58 Md. 347; *Reddington v. Traction Co.*, 132 Pa. St. 154.

NEGLIGENCE—DANGEROUS PREMISES—RAILROAD TURNTABLE.—C., B. & Q. R. R. CO. V. KRAYENBUHL, 91 N. W. 880 (NEB.).—A child of four years was injured while playing on a turntable. *Held*, that the owners of the turntable were negligent, in that it was not kept securely locked.

The general rule is that one who maintains on uninclosed premises dangerous appliances of a nature likely to attract children in play is liable to a child injured thereby, although trespassing. *R. R. Co. v. Stout*, 17 Wall 657; *R. R. Co. v. McDonald*, 152 U. S. 262. The presence of the children must have been reasonably anticipated. *Phila., etc., R. Co. v. Hummell*, 44 Pa. St. 375. It has, on the other hand, been held that there is no liability unless the negligence may be considered as equivalent to a wanton injury. *Shea v. Gurnly*, 163 Mass. 184; *Walsh v. Fitchburg R. Co.*, 145 N. Y. 301. And the general rule that there is no duty to trespassers has been applied in the case of children. *Peters v. Bowman*, 115 Cal. 345; *Clark v. Manchester*, 62 N. H. 577. As stated in the opinion, there is a so-called "doctrine of the turntable cases," in line with the present decision. *R. R. Co. v. Stout* and *R. R. Co. v. McDonald, supra.* This has been affirmed in Ohio, Georgia,